

**SUPPLEMENT
TO
2016-2017**

**CBE HEARING
GUIDELINES
MANUAL**



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**OPEN MEETING LAW
2015 LEGISLATIVE AMENDMENTS**

DATE: August 19, 2015

TO: Deputy Attorneys General and Staff

FROM: George Taylor, Senior Deputy Attorney General

A handwritten signature in blue ink, appearing to be "GT", written over the name "George Taylor".

SUBJECT: 2015 Legislative Amendments to Open Meeting Law in SB 70

NOTE: SB 70 was Effective May 27, 2015 upon the Governor's signature.

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If you serve on or represent a public body, whether elected or advisory, this memo should familiarize you with SB 70's new amendments. Below is the electronic link to SB 70.

<https://www.leg.state.nv.us/Session/78th2015/Reports/history.cfm?ID=114>

SUMMARY OF AMENDMENTS TO NRS 241:

1. Definition of "quorum" has been clarified.
2. "Working day" has been defined.
3. A list of statutory "exceptions" to general provisions of the Open Meeting Law (OML) is set out.
4. "Administrative action" requires placing name of person on agenda.
5. Compliance with "minimum public notice" must be documented in writing.
6. Designation of "alternates" to attend public meetings is further refined.
7. "Approval of minutes" of public meetings requirement is strengthened.
8. The Attorney General's Office (AGO) investigation file of OML complaints, including all documents and other information compiled pursuant to NRS 241.039(2), is confidential until the investigation is closed.
9. Certain documents found in the AGO's investigation files are declared to be public records.

DETAILS OF AMENDMENTS:

1. Definition of “Quorum” has been clarified.

The word “constituent” was removed from the definition so that quorum is the simple majority of the membership of a public body, or another proportion established by law.

2. “Working day” has been defined.

The definition of “working day” for purposes of the OML is now defined to include Monday through Friday except those days declared to be legal holidays pursuant to NRS 236.015.

3. A list of statutory “exceptions” to general provisions of the OML is set out.

NRS 241.016 contains a list of statutes which except certain hearings, meetings, or other proceedings from NRS 241.

4. NRS 241.020 clarifies that use of “administrative action regarding a person,” requires the name of a person to be placed on agenda.

Administrative action “regarding” a person includes a public body’s appointment process. In 2004 the Nevada Supreme Court defined “action against a person,” as used in NRS 241.034, to include actions involving an individual’s characteristics or qualifications. The Court in *Harris v. Washoe County Board of Equalization*, 1290 Nev. 1246, 131 P.3d 606 (2004), a case about the notice provision in NRS 241.034, defined the phrase “administrative action against a person.” The AGO offered this amendment which substituted the word “regarding” for “against,” so that application of NRS 241.020(2)(d)(5) may be applied at any time an individual’s characteristics or qualifications are considered, not just when an action against a person is on the agenda.

5. Compliance with “minimum public notice” must be documented in writing.

This new amendment expands minimum notice requirements to make every public body keep documentation in writing, in its records, of minimum public notice of its public meetings. Minimum public notice is set out in NRS 241.020(3). The place of the meeting and three other places where the notices are posted must be documented in writing. If a public body uses more locations to post notices of meetings than the four locations described in statute as “minimum public notice,” the public body does not have to document in writing the additional locations unless so desired.

There are three requirements to document public meetings in compliance with this amendment. Each person posting notice must prepare a written document to comply with minimum public notice:

- 1) Date and time of posting of public meeting;
- 2) Address of the location of each posting;
- 3) Name, title and signature of the person who posted the notice.

6. Designation of “alternates” to attend public meetings is further refined.

There are many statutory authorities that generally allow a “designee” to serve on a public body. Designees or alternates were being selected by a member, or the public body as a whole could select an alternate or designee. This amendment supplies some uniformity to the process as well as the designee’s authority to act once seated on a public body. This amendment applies to both a member and to the public body as a whole. Explicit authority for either type of designation must be in the creating documents.

Designation may only occur if the public body’s creating authority specifically allows for designation. If there is no express authority authorizing a designee, then one cannot be appointed by another member or the public body. However, if the legal authority creating the public body expressly authorizes a designee, then the process of designation of a person may occur either in written document, or it may be made on the record at a meeting of the public body.

7. “Approval of minutes” of each public meeting must be approved within 45 days after the meeting or at its next meeting. Minutes or audio recordings of a public meeting must be available for inspection by the public within 30 working days after adjournment of the meeting.

8. The AGO’s investigation of “OML complaints,” including all documents and other information compiled pursuant to NRS 241.039(2), are confidential until the investigation is closed.

9. Certain documents found in the AGO’s investigation files are declared to be public records and described below.

- 1) The Open Meeting Law complaint;
- 2) Findings of fact or conclusions of law made by the AGO;
- 3) Any document in the AGO’s investigation file, which may also be requested from another government entity other than the AGO.